

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

GILBERT GUTIERREZ,

No. C 13-01862 YGR (PR)

Petitioner,

**ORDER OF DISMISSAL WITHOUT
PREJUDICE**

v.

RANDY GROUNDS, Warden,

Respondent.

On April 24, 2013, Petitioner has filed a pro se petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254. However, Petitioner has not paid the requisite \$5.00 filing fee or filed an application for leave to proceed in forma pauperis ("IFP").

On the same day the action was filed, the Court sent a notification to Petitioner informing him that his action could not go forward until he paid the filing fee or filed a completed prisoner's IFP application. The Clerk of the Court sent Petitioner a blank IFP application and told him that he must pay the fee or return the completed application within twenty-eight days or his action would be dismissed. Petitioner filed copies of the Certificate of Funds and prisoner trust account statement; however, he did not file his IFP application.

On June 6, 2013, the Court sent a second notification to Petitioner informing him that he did not file his IFP application. The Court directed Petitioner to either pay the fee or submit his IFP application within twenty-eight days or his action would be dismissed.

More than twenty-eight days have passed and Petitioner has not paid the filing fee, submitted his IFP application or otherwise communicated with the Court.

IT IS HEREBY ORDERED THAT this action is DISMISSED WITHOUT PREJUDICE.
The Clerk shall enter judgment, terminate all pending motions, and close the file.

IT IS SO ORDERED.

DATED: August 15, 2013


YVONNE GONZALEZ ROGERS
UNITED STATES DISTRICT COURT JUDGE